

1 character witnesses testify. Play the tapes. Play the tapes
2 of the statement with Trooper Hudson. Play the tapes, the
3 complete tapes, of the ten-point examinations, recall what he
4 had to say, evaluate his testimony as you would any other
5 witness. I'll let Mr. Harris address Mr. Taylor's comments.

6 But we have exhibits. Let me -- get out your pencils.
7 Let me give you what I -- some of the exhibits just real
8 quickly so you can find them. Okay? 1-02, 03 and 04 are
9 employment contracts of Taylor and Filcheck, the beginning of
10 the numbers in the 100 series. 01-15, 16 and 17 are also
11 employment contracts. You need to read the language that's
12 in those contracts. That's 15, 16 and 17.

13 01-023 is the floor plan. You may want to look at that.
14 We talked about the floor plan, the security cameras, how
15 things were set up, the security, locked doors, how the
16 organization was run. Again, filling out some of the Twigg
17 testimony, some of the Filcheck and Taylor testimony. So 023
18 is the floor plan.

19 1-055 is that infamous letter from the Chiropractic Board
20 you've seen at least a half dozen times. I want you to read
21 that if you have any hesitation upon something but read it in
22 conjunction with 01-193 because those are the Board
23 regulations and the statutes. You can't just read one
24 without the other. One explains the other. So read 01-193
25 with 01-55.

1 1-078 is the staff meeting that Mr. Donley made reference
2 to and note that's in June of 1994, I believe, and that is
3 with Bill Filcheck being there for only a couple weeks.

4 01-095 is an interesting letter. It's an employee
5 reprimand of Medina, where Medina was criticized by Burns and
6 Twigg for giving away certain other collars and other
7 devices. Why is that significant? Is there any question in
8 your mind as to who's in charge? If there is, look at 01-
9 095.

10 And to help you decide this thing, 01-112, I want you to
11 read that. That is Price's resignation letter to the staff.
12 01-112, in which Price tells the staff that she's leaving,
13 she cares about them all but there's nothing illegal going
14 on, and she puts that in bold print and she gives a copy to
15 Taylor and to Filcheck and to the other staff members.

16 I've asked you to read tapes -- read tapes, listen to
17 tapes. Let me give you the numbers. 01-256 is the audio
18 tape cassette of Filcheck and Trooper Hudson. 266, 267, 268
19 and 270 is the ten-point exam tapes. If you're so inclined,
20 look at those.

21 You know, in the opening statements, I think I'm going
22 back here and tie this all together, Mr. Adams said -- put up
23 a bunch of lies. Remember that? That was pretty good. Lie
24 number one is. Lie number two. Well, I -- you know, lawyers
25 steal from everybody. We plagiarize like crazy. He has a

1 good idea, I'll give him credit. This is Mr. Adams' idea,
2 we'll give him a footnote. Lie number one: protocols are
3 unimportant. I know you're tired of hearing that word, but
4 again, if you are in certain professions, engineering,
5 military, production of engineering, protocols are second
6 nature and to say that they are -- somehow something is wrong
7 with a protocol just kind of defies my thinking.

8 I mean every entity has protocols. The garage that you
9 take your car into when they take apart -- do a brake job on
10 your car will have a protocol, a set way on how to do things.
11 I could -- I was going to say some protocols are male
12 oriented and female oriented. My wife tells me there's a
13 protocol to sorting and doing laundry. My son and I can
14 never master that protocol but there's a separate sheet on
15 how we do that, at least that's what she tells us because we
16 always get it wrong because we can't follow the proper
17 protocol to sorting and doing laundry. But even housewives
18 have protocols. To clean a bathroom has a protocol.

19 Protocols are just second nature and as you heard, the
20 State Police have protocols. When they arrest someone for a
21 DUI, they have a protocol. Why? So they won't look like an
22 idiot to figure out. Protocols are just so common and
23 everywhere that to imply that there is something wrong or
24 inherently suspect with the protocol I think just defies
25 logic.

1 Lie number two. Context is unimportant. Context is
2 unimportant. Context is extremely important. Taking a
3 sentence or a line from a letter or the excerpt of a tape out
4 of context diminishes it, allows you to mislead. The bells
5 and whistles and whiz bags of this technology age, I know
6 some of you are older than I am, but I just fear that we're
7 losing a lot of completeness. Context and completeness, in
8 my mind, are synonymous. Completeness is important.

9 Chains of authority are important. I said that protocols
10 are important but chains of authority are important. Every
11 organization that I've ever been involved with has a chain of
12 authority. We have a chain of authority in this courtroom.
13 The Judge is at the head of the chain. Every organization
14 has a chain of authority and that chain of authority must be
15 respected and the protocols must be respected and to ignore
16 saying a chain of authority between a subordinate and a
17 superior is something to be ignored because it's out of
18 context, because it's not important, that the x-ray
19 technician has just as much to say in an organization as the
20 office manager, who has just as much to say as the owner, who
21 has just as much to say as the medical doctor or the
22 chiropractor or the physical therapist. That's the beauty
23 again of a jury system. You guys have been in this real
24 world. You know that there's a hierarchy, there's an
25 authority. And, again, I'll draw it back to the household.

1 There's a hierarchy of authority in the household. Okay. If
2 you've got teenage kids, all right, you certainly don't think
3 they have the same amount of voting power as mom and dad. If
4 they do then you've got a problem probably in your household.
5 There's a hierarchy of authority there. There's a chain of
6 command, whether it's in the military, whether it's an
7 industrial organization, whether it's a doctor's organization
8 or whether it's in a mom and dad with teenage kids household.
9 Chains of command are important.

10 Lie number three. The person as a whole is unimportant.
11 I suggest to you a person as a whole is extremely important.
12 What someone has done with their life is important. You
13 could say, well, isn't it kind of keen he's an Eagle Scout,
14 Bill Filcheck's an Eagle Scout. That's an accomplishment.
15 It's an accomplishment as to having served several years in
16 the military. It's an accomplishment having made a rank of
17 such and such, a keeping for the position level of foreman in
18 an organization. All of these are important. Having friends
19 that are priests that will come in there and testify they've
20 known you for almost twenty-five years. A person as a whole
21 is important. There's jury instructions on that and I called
22 your attention to them then and I call your attention to them
23 now. They tend to negate those mental state elements.

24 Number four. Quantity makes up for lack of quality. I
25 think that's something that a lot of us could go into. If

1 you don't have good quality you got to bury -- bury people in
2 paper. Now you got thirty-seven volumes or whatever of
3 exhibits so we can bury someone in paper and that -- they'll
4 not look at it and quantity is more important than quality.
5 It's quality that's important, not quantity. It's what you
6 read rather than what -- there's a taped excerpt and
7 something flashed on a screen or some paragraph out of a
8 statute or some paragraph out of a piece of a report or a
9 piece of paper. Read the entire thing. Quality is more
10 important than quantity.

11 Number five. Billing was easily understood. I could do
12 a -- that's part A, part B, it's the terms that's easily
13 understood. Everyone, of course, understands billing and
14 understands the terms. Those of you that have kids that ever
15 have got those EOB's, explanation of benefits, they come to
16 your house. I'm sure that everyone of you as a juror can
17 honestly say you understood every EOB that's ever come to my
18 house.

19 All insurance papers, I understand. I read my
20 homeowner's policy, my auto policy, and gee whiz, I
21 understand that. No problem at all. It's not confusing at
22 all. I once had an insurance law professor who said that the
23 only rule he felt insurance is is compared to a biblical
24 phrase to the big print with it and the small print taketh
25 away and unless you read the entire document, the small print

1 is going to get you every time.

2 Lie number six. I'm on a roll here. Complaints and
3 accusations of unethical or unprofessional conduct was sent
4 into some legal company. But you complain about something
5 and saying it's not useful or you complain about you haven't
6 been tested; therefore, according to the Government that is
7 to say that they're illegal or medically unnecessary. Not
8 the case. I don't know how logically it falls from that.
9 Usefulness is not the same as -- used is not the same as
10 necessity.

11 Number seven. The burden of proof and the burden of
12 production. I had to step back for a moment and told you
13 what the burden of proof and the burden of protection is. I
14 think it's highly clear who has the burdens to produce a
15 proof and who has the burdens of production.

16 And my last one I had to -- it's kind of facetious but
17 we're from the insurance company, we're here to help. I
18 guess the parody of that is, we're from the Government, we're
19 here to help. But I think you need to -- when you hear the
20 credibility witnesses, look at the context. Those of you, in
21 your common experience, that have had -- fought the battles
22 with coverage of insurance companies know what I'm talking
23 about.

24 Touch back, the instructions. I said we have overt act
25 elements and mental state elements. We have willfulness. We

1 have knowingly. We have purposeful intent. In order for you
2 to find Bill Filcheck guilty of conspiracy you must find
3 agreement. You must find that he willingly and knowingly
4 joined in this conspiracy with a purpose and intent,
5 purposeful intent to achieve an illegal goal, whatever that
6 goal is you can find under the Government's quantity of
7 production.

8 I would suggest to you that there is no proof of
9 purposeful intent. There is no agreement. Burns doesn't --
10 didn't conspire with anybody except Burns. He looked in the
11 mirror to conspire with himself. That's the only person he
12 conspired with. He shared nothing with anyone. He agreed
13 with no one. Burns did not conspire with anybody.

14 All the other remaining counts, the two through fifteen,
15 you also need willingness, willfulness and knowingly, but you
16 also need specific intent. That's why I called your
17 reference to those elements. You need to find he had the
18 specific intent to aid and abet for this illegal purpose. If
19 any one of those elements fail, the willingly, the knowingly,
20 the purposeful intent, if any one, don't have to have them
21 all fail, if any one of those fails then you're obligated, it
22 is your duty to return a not guilty verdict.

23 And look at the good faith instruction. The good faith
24 instruction on page thirty-five of the charge -- the good
25 faith instruction addressing the issue of willingly. If you

1 feel he operated -- Bill Filcheck operated in good faith,
2 everything is obligated to be returned not guilty. Why?
3 Because the mental state element of the willingly falls and
4 doesn't address or suggest to you that the Government hasn't
5 proven knowingly and they certainly -- certainly haven't
6 proven no specific intent to join in some sort of illegal
7 enterprise or illegal organization as Mr. Donley pointed
8 reference to several times.

9 I ask you to go back and return a not guilty verdict on
10 Counts 1 through 15 in favor of Bill Filcheck and I thank you
11 very much for your time.

12 THE COURT: All right, ladies and gentlemen, we'll
13 take the mid-afternoon recess at this time and I'd ask that
14 you be prepared to return to the courtroom at a quarter till
15 three, ten minutes from now. Thank you very much. Please
16 don't discuss the case among yourselves during the recess and
17 leave your notebooks and other papers on your desk face down.

18 (Jury out 2:35 p.m.)

19 (Recess at 2:38 p.m., until 2:40 p.m.)

20 (On record in Chambers at 2:40 p.m.)

21 THE COURT: All right. I looked at my notes and I
22 asked my law clerk to look at his notes and we both have the
23 same thing, which is a one and a half hour close for the
24 Government, split one hour and ten minutes on the opening
25 part and twenty minutes on the rebuttal and there was forty-

1 five minutes for Mr. Jaffe, forty minutes for Mr. Zimarowski
2 and Mr. Harris said thirty minutes but I think I ruled that
3 if he wanted to take forty he could. So that's where we are
4 on that.

5 MR. ADAMS: All right, Your Honor, I may have
6 misunderstood. I thought we were in -- that response was in
7 the response to Mr. Zimarowski's concern that we not backend
8 the argument and we were making, I think, a representation it
9 was going to be at least an hour and ten or an hour and
10 fifteen on the front-end but if that was not the way it was
11 understood that was --

12 THE COURT: Well, I didn't understand that. I do
13 want to say something though. I do think, in light of your
14 misunderstanding, that it's probably fair to give you some
15 additional time particularly because the two defense closes
16 have gone over by five minutes each, which is not a
17 significant amount of time.

18 MR. JAFFE: By the way, I think Mr. Harris is going
19 to speak considerably less and maybe that --

20 THE COURT: That's his choice. He has forty if he
21 wants it. And actually I think this is a case in which, upon
22 reflection in listening to the closing arguments, I think you
23 all have done an excellent job of explaining a very
24 complicated set of issues to the jury and I think they're
25 listening very carefully so I'm not too concerned that

1 cutting off is coming because it's become redundant or
2 unimportant. What I've concluded is that I'll give you the
3 twenty minutes.

4 MR. ADAMS: That will be fine, Your Honor.

5 THE COURT: Which I think is probably a gift of an
6 extra five minutes since you would get the five additional on
7 the other two and you had five left over but I will -- I will
8 have to stop you, Mr. Adams, at that twenty minutes.

9 MR. ADAMS: Okay, Your Honor.

10 THE COURT: Because it is rebuttal and they don't
11 have a chance to respond to it.

12 MR. ADAMS: I understand. I appreciate that.

13 THE COURT: Okay. Now I want to say a couple of
14 things. The golden rule's observed in this courtroom and
15 when you start personally attacking or you start testifying
16 in your closing argument, I mean, there was no objection but
17 had there been objections on several -- many several
18 occasions I would have -- I would have sustained them. I
19 just want you to be aware of the fact that I listen carefully
20 to closing argument and I -- I have a couple of
21 understandings, which I think are correct, about where the
22 line is and we're almost finished and I don't expect the line
23 to be crossed again and that's that. I'll see you all in
24 there in five minutes.

25 (Recess from 2:45 p.m., until 2:53 p.m.)

1 (Jury in)

2 THE COURT: We'll begin the last segment of the
3 closing arguments with Mr. Harris.

4 MR. HARRIS: Thank you, Your Honor.

5 CLOSING ARGUMENT OF DEFENDANT TAYLOR

6 MR. HARRIS: I also, Ladies and Gentlemen, want to
7 thank you all for participating. I know when I went to law
8 school, like a lot of people, I didn't know what to think of
9 the jury system but I became a firm believer, all my heart
10 and soul into it and I think it's the only fair way to decide
11 someone's fate so, again, I thank you.

12 I'm going to do the opposite of everything that Mr.
13 Zimarowski told you. I'm going to talk loud. I'm going to
14 talk fast and I'm mostly going to talk to you in the dark
15 because I'm going to be showing you some stuff.

16 I want to get right to the heart of the matter. Our
17 defense in this case is simple. Doctor Taylor did not
18 conspire with anyone to defraud anyone. He did not have any
19 intent to defraud anyone and whatever he did in this case, as
20 Mr. Zimarowski talked about, he did it with -- with good
21 faith to help the patients.

22 Now, you know, how do you determine what someone --
23 what's in someone's mind, what they're thinking? Now the
24 Government, you know, wants to rely on things that Doctor
25 Taylor said in letters and what he said to people but it's

1 more important, I submit to you, as to what somebody did or
2 did not do. That's what you want to look at.

3 Now when I was trying to decide how to organize this
4 closing, and I thought what's a good way to do this and I
5 couldn't really come up with anything and I'm sure, like a
6 lot of you all, one night I'm dreaming, can't sleep very
7 well. I'm thinking of protocols and HCFA forms and ten-point
8 exams and that's when something came to me and I decided to
9 make up my own ten-point list so that's what I want to show
10 to you right now. I call this Doctor Taylor's "Did Not Did
11 Ten-Point List" and I want to go through it with you.

12 The first one. He did not create this protocol that
13 we've been talking endlessly about and he did not have any
14 say in the protocol. You all know from his testimony he was
15 twenty-five years old, just out of school. It was his first
16 job. He went to a school that was steeped in straight
17 chiropractic. He was a big believer in that. He came to the
18 Burns clinic. That's the way they did things in the
19 beginning and then somewhere in late '93-'94, they said we
20 got this new idea, this new thing. We're going to go to a
21 multi-disciplinary clinic. We're going to be able to cover
22 everything, have a medical doctor do all sorts of things.
23 They never asked Doctor Taylor what he thought, if he liked
24 that or if that was okay with him. They just said this is
25 the way we're going to do it.

1 Number two. He did have an employment contract with the
2 clinic. He had three contracts. One was in '91. One was in
3 '95, and that one was for three years and one was in '96 for
4 one year. Now the '95 contract, as I think Mr. Zimarowski
5 pointed out on his cross-examination of Doctor Taylor, it had
6 a section called duties and supervision and it said his --
7 his performance shall be subject to the ultimate control and
8 supervision of the corporation. In other words, they could
9 tell him everything to do, what he had to do. It had a
10 restrictive covenant in there that said that if you leave you
11 can't -- you can't open your own practice within two years
12 and so many miles and then it had an early separation fee.
13 If you leave, you got to pay like a \$50,000 penalty. That's
14 what you got to do, so it wasn't like he could just walk out
15 and say so long.

16 Let me go to number three. He did not order any tests
17 and he did not have control over the testing. Now you heard
18 Mr. Twigg say that Burns decided what tests to perform. He
19 used the Rolodex cards or the Post-It Notes to instruct the
20 chiros on what to do and Jemia Filippine said that Burns
21 ordered all the tests and that Mr. Twigg did what Burns told
22 him to do and I think Doctor Price said all the protocols
23 were determined by Mr. Twigg.

24 Go to number four. He did complain frequently about the
25 control that Burns had over the treatment plans. I mean what

1 else was he going to do? Mr. Twigg said that Doctor Taylor
2 complained frequently to Burns about the tests, about not
3 having control over the tests and Burns said, well, this is
4 just the way it's done. This is the new concept. This is
5 the way we do it now. Price said that Scott frequently
6 complained about control that Burns had over the treatment
7 plan. She heard him complaining and you know he wrote those
8 memos and letters. In those letters the Government seems to
9 want to focus on certain things but you got to look at what
10 was the thrust of his letters. He was complaining that there
11 was too much testing going on. It was generalized testing.
12 You know, we do all this for each patient, instead of what
13 Doctor Taylor wanted was to more particularize, you know,
14 let's look at each patient and decide what are the
15 appropriate tests for him and that's what he was trying to
16 get.

17 Number five. He did not follow the ten-point script that
18 you've often heard about and did not tell anyone that they
19 had a severely twisted spine. Now as you know from what Mr.
20 Donley said and what's gone on through this whole trial, the
21 Government has made a big deal out of this ten-point script
22 and the fact that Scott had some notes when Doctor Halstead
23 came in in which he wrote stuff down but that's not really
24 the answer. The answer is did they ever produce any evidence
25 that he followed this script? You know, they said that they

1 had -- they asked Doctor Taylor, I think on cross, didn't
2 there come a time when these ten-point examinations, and I'm
3 talking about the ones with patients, that were tape recorded
4 and he said, yes, they were. Well, I didn't hear any. I
5 don't remember hearing one tape recording of Doctor Taylor
6 giving any kind of ten-point exam to anyone and following any
7 kind of script. And where was the evidence that he ever told
8 anyone they had a severely twisted spine. Never one time did
9 anybody produce any evidence that Doctor Taylor ever said
10 that.

11 How about with Mr. Muth? When Mr. Muth, you know, who I
12 think obviously was trying to bait Doctor Taylor by saying,
13 well, I'm really concerned about this. I had a friend in
14 high school that had it. I mean, how bad's it going to be?
15 What did he say? He said mild to moderate. It's not severe.
16 It's not anything to really worry yourself at this time over.
17 I mean, he could say, oh my goodness, it's the worst I've
18 ever seen. You better come for, you know, fifty visits or
19 come for the next year but he never did that.

20 The next one. He did spend a lot of time with his
21 patients. I mean, look at the time that he spent, if you
22 think about it, with Mr. Muth. I think I asked Mr. Muth how
23 long were you there when you came in there. Well, he was
24 there on his first visit about an hour and a half. I mean,
25 that was a good bit of time. Doctor Taylor went over his

1 medical history, asked him what he did for a living, what
2 kind of work-outs was he starting. He went over the tests in
3 detail. When Mr. Muth would come back on a subsequent visit,
4 he would go over the test and try to explain it to him. He
5 showed Mr. Muth the x-rays. He discussed the x-rays. He
6 discussed what the scoliosis was and talked to him about that
7 and you got to remember, there's been evidence, they're
8 saying that Doctor Taylor's getting paid per patient. Well,
9 if Doctor Taylor's in some kind of scheme to defraud wouldn't
10 he want to run them through. Well, come on now, let's go.
11 Next patient. Let's run them in there.

12 But, you know -- and then you also heard that Twigg said,
13 Mr. Twigg, that Doctor Burns criticized Doctor Taylor for
14 spending too much time with patients. And why do you think
15 he was doing that? Because he was concerned about them.

16 Now the next ones I sort of lumped together, number seven
17 and eight because they sort of go together and these are from
18 that staff meeting and Mr. Donley talked a lot about that.
19 The first one is that Doctor Taylor did not follow Doctor
20 Burns' recommendation and make sure you don't list anything
21 that's mild. I mean, first off, Mr. Muth is a prime example
22 of that. I mean if he was going to do -- if he was going to
23 follow this, you know, he would have said what you have, your
24 scoliosis is terrible. It's very bad. Oh, my goodness. But
25 he didn't do that. I mean, the Government makes a big deal

1 out of that neither Doctor Taylor or Doctor Filcheck ran out
2 there and said you can't do this. What is this? What kind
3 of thing is this? But really the issue is what did they do?
4 Did they go out and try to do that? And, certainly, Doctor
5 Taylor didn't. There's no evidence that he did.

6 Look at the next one. Did not follow Burns'
7 recommendation to make something up to put in there and I
8 think really Mr. Jaffe covered this and I'm going to cover it
9 a little bit here. But did you hear any evidence that
10 anybody came in and was treated and there wasn't nothing
11 wrong with him. I mean, you saw Doctor Taylor got off the
12 stand, and I think I held them up, and we went through the x-
13 rays with Mr. Muth and the Government's never challenged
14 that. They could have brought in experts or a doctor and
15 said well he doesn't have scoliosis but that's -- there's
16 been no challenge to that.

17 Now, as you know, there's a conspiracy count and then
18 there's what some people call substantive or general counts.
19 Now Doctor Taylor's patients were in Counts 3, 4, 5, 8, 9, 12
20 and 14. He didn't treat the patients in 2, 6, 7, 10, 11, 13
21 and 15. Now one thing, and I know I took some time and
22 probably bored you all to tears somewhat, but when I had
23 Doctor Taylor on the stand I tried to go through each patient
24 and what I want to tell you right now is each and every one
25 of those patients in those general counts was treated or seen

1 by Doctor Price, every single one of them and I think I asked
2 Doctor Price in there. I said, Doctor Price, these people
3 had legitimate complaints, didn't they? She said absolutely.

4 And I'm going to go through them real quick now. I'm not
5 going to put them up here and waste a lot of time but I want
6 to go through some of them. In Count 3, a patient H.S. It
7 says here: "present ailment - 69-years old. Presents with

8 lower back and hip pain. Intermittent right
9 shoulder pain" and Doctor Price says:

10 "lumbar degeneration" is her impression. "Cervical
11 osteoarthritis" and she recommends "spinal
12 manipulation." She later says on this same patient:
13 "good improvement, continues to improve, much
14 improved, continues to improve" again. "Doing well.
15 Doing well" again. "Continue with the current
16 treatment plan. Continue spinal manipulation."

17 Let's go to Count 4. Patient N.V. It says here:

18 "Present ailment. Long history of neck pain, knee
19 pain, has been in a car accident in 1988. Remarks:
20 Chronic cervical strain. Left knee flexion is
21 impaired. Carpal tunnel. Recommend spinal
22 manipulation."

23 Count 5. Patient R.N. "67-years old. Long history of
24 complaints about headaches. Did have a fall on the
25 right shoulder in January. Wakes up with shoulder

1 hurting" and her impression "shoulder tendonitis".

2 She says again, "spinal manipulation".

3 We'll go to Count 8. Patient P.W. "Present ailment,

4 intermittent leg pain, treated by Doctor Wiley.

5 Complaints of -- with a lumbar brace, muscle

6 relaxants about five years ago." Her impression,

7 "chronic recurrent lumbar strain" and what does she

8 recommend? "Spinal manipulation and physical

9 therapy" On this same patient she later says "lower

10 back pain much improved. Doing well. Continue the

11 spinal manipulation." A little later on, "doing

12 very well. Spinal manipulation per Doctor Taylor"

13 Let's look at Count 9. Patient B.L. "57-years old.

14 Right wrist is swollen, stiff, painful, fingers are

15 numb. Has neck pain that affects his left shoulder

16 and scapula. Unable to sleep many nights. He wakes

17 up in pain" and she says again, "impression is

18 rheumatoid arthritis" and she recommends "spinal

19 manipulation".

20 Count 12. Patient J.B., a young fellow. "26-years old.

21 He complains of pain in the T-8 region", that's just to the

22 right of his spine. "His pain often occurs when he --

23 extreme extension of his neck. Got much worse on Sunday

24 night" She says: "Impressions: lumbar strain, loss of

25 cervical curvature and recommends spinal

1 manipulation." Then later on she says: "still has
2 some mid-back pain but the neck and lower back are
3 fine. Continue adjustments."

4 And finally the last one in Count 14. A patient M.M.
5 "Present ailment, hurt back in 1988 when working at
6 hospital, has hurt ever since. Impression: lumbar
7 strain. Recommendation: spinal manipulation" and
8 in the "progress note" she says "continue spinal
9 manipulation".

10 Let's go to number nine. Okay. And here Doctor Taylor
11 did tell Doctor Burns that the clinic had lost focus on
12 chiropractic. You'll see it in one of those memos. He also
13 mentions that our main objective is to get the patient well
14 and that they -- and we should be doing this more to get
15 patients better quicker. Now, you know, does that sound like
16 somebody that's conspiring, that has an intent to defraud or
17 cheat, that he's in on this? I mean, like I said, you'd
18 think he'd be talking about ways they could move patients
19 through faster so he could make more money.

20 Let me go to number ten. Here's my final point. As you
21 know he did not tell anyone to lie on the insurance forms.
22 Now Mr. Twigg got up and testified that he told Mr. Muth to
23 lie on the form that Mr. Muth got from his insurance company
24 and brought down there. He admitted that he told him to lie
25 on that and you'll remember the Judge asked Mr. Muth, when

1 Mr. Muth was up there, was Doctor Taylor anywhere around when
2 you went up there and he said, no, he wasn't there, and
3 Doctor Taylor said he had nothing to do with that. That was
4 Mr. Twigg that told him to lie. There's no evidence ever
5 been in this trial that Doctor Taylor told anybody to lie on
6 anything. He was just trying to do what he could for people.

7 Now I want to talk about one thing in the one form and
8 I'm going to need your help, Laura, on this one, to show you.
9 This is in the memo -- the memo called "Things That Stress Me
10 out", go to exhibit -- go to exhibit 1-131, page 2. Here's
11 one paragraph that the Government did not point out and I
12 think this paragraph is very, very important to this case and
13 I want to read it to you and tell you to take a look at it.
14 And, again, this is from Doctor Taylor's memo "Things That
15 Stress Me Out", Exhibit 1-131, page 2. He says here:

16 "We are supposed to have authority, responsibility;
17 however, most of the time we are kept in the dark.

18 We end up being more technicians than doctors."

19 And I'm telling you, that's exactly what was going on in this
20 case. Doctor Taylor and Doctor Filcheck, for that matter,
21 they weren't really doctors. There was no difference from
22 them -- with them and anybody else that worked there, Jemia
23 Filippine or Sean or J.B., they were just simply technicians
24 doing what they could. They had no authority or decision
25 making.

1 Now I want to talk about a few more things and then I'm
2 going to be finished. You can bring up the lights. I want
3 to mention for the umpteenth time, I'm sorry, this letter
4 from the Chiropractic Board. You got to remember, it said in
5 there that you were to perform these tests, not whether you
6 were there when they were going on. There's never been any
7 evidence that Doctor Taylor performed any of those tests.
8 Where was the evidence? As you know, when I went through
9 everything with Mr. Muth, it was always Sean or J.B. that
10 were doing all these tests. It wasn't Doctor Taylor. He was
11 just doing manipulations and things like that. He didn't
12 perform any of those tests.

13 Now, secondly, Mr. Donley talks about this March 24th, '97
14 interview with Sergeant Finkenbinder and he said that at this
15 interview Doctor Taylor told them that these tests were
16 medically unnecessary. Well, when Doctor Taylor was on the
17 stand and he was being cross-examined he said I never told
18 them that. Now, you say well what do we do, they say he did
19 and he says he didn't. Well it would have been easy in this
20 case. All they would have had to do was tape his statement.
21 Why didn't we tape his statement, then we would know what he
22 said but we don't know so there's no reason why you can sit
23 here and say well, I'm not going to believe Doctor Taylor.
24 Why? He's got as much right to be believed as anybody.

25 And, third, Mr. Donley talks about that Doctor Taylor

1 laughed when Doctor Burns said that Doctor Medina was a gem,
2 he was real pliable. Well, come on, think about it. Why do
3 you think that Doctor Taylor laughed? Because he knew that
4 Doctor Medina wasn't much of a doctor. I mean, come on, he
5 was sleeping and reading magazines. You know, that's why he
6 was laughing. He knew that wasn't much of a doctor there.
7 You couldn't count -- he said he wouldn't even rely on him.

8 And, also, Mr. Donley points out that Doctor Taylor said
9 something on there about that he never diagnoses. Well, I
10 mean, if you think about it, what was Doctor Taylor doing?
11 He was actually complaining about that. He wanted him to do
12 some diagnosing to help them out, so he could help them with
13 the treatment of patients. He wasn't like he was agreeing
14 with that. He was complaining about it.

15 Now, also, the Government sort of suggests, it seems like
16 to me, they never came out and said this but they seem to
17 suggest this that Doctor Taylor, and really Doctor Filcheck
18 too, that well they should have -- they didn't like things
19 and they felt there was too much testing, they should have
20 just quit like Doctor Price did. Well, you're forgetting
21 that first they had a contract that had a covenant not to
22 compete, that had a penalty if you left early. And what
23 about their incomes? Doctor Price was only working like
24 half-time and was making about \$80,000 a year. I mean she
25 could have been making \$160,000 if she was working full-time

1 and these guys are making about thirty-some thousand, so
2 they're just going to quit and say, oh, we'll just start
3 over. And where are you supposed to -- where you supposed to
4 move to? They got to sell their homes and whatever and
5 leave. They can't start up.

6 And, finally -- and something that's really not been, I
7 think, brought out enough in this trial and I think it's
8 something -- there's something else that was missing here
9 that nobody's talked about, none of the other lawyers have
10 talked about and I'm going to talk about it. There's one
11 thing that's really missing and that is let's -- let's face
12 it, the patients. The patients meant something. What do you
13 do if you're Doctor Taylor, just say, well, I don't like
14 what's going on here so see you all later, goodbye. You
15 know, you'll just have to get another doctor. You know, I
16 just don't like the way they're operating here. But these
17 people, they relied on Doctor Taylor and Doctor Filcheck to
18 help them. They came in. They had real problems. You
19 remember what Doctor Price said and she -- after all, she was
20 a Government witness. She wasn't my witness. What did she
21 say about Doctor Taylor? He was a caring, sympathetic
22 caregiver. He was well liked by his patients and I submit to
23 you that meant a lot to Doctor Taylor. He tried to help
24 these people so you can't overlook and just say let's forget
25 about the patients, they don't mean anything. We'll just

1 forget about them and leave them on their own.

2 Now I'm getting down near the end and like Mr. Zimarowski
3 did, in the opening I'm going to come back to something. Mr.
4 Adams got up and came over and pointed to Doctor Taylor and
5 said Doctor Scott Taylor, Doctor of Chiropractic, like that
6 was something that was bad, in and of itself bad, no good and
7 I'll just say yes, Doctor Taylor is a Doctor of Chiropractic
8 and I think the evidence shows he's a good one, one that
9 cared about his patients and tried to help his patients and
10 spent too much time with his patients so it's not a bad
11 thing. He tried to do what he could to try to make them
12 better and also keep them better. That was another thing of
13 him was preventative chiropractic, try to keep people good
14 and make sure they don't have problems again.

15 He did not agree with the protocol. He did not call the
16 shots. He did not order the tests. He did not get the money
17 and he's not guilty of conspiracy or health care fraud and I
18 thank you.

19 THE COURT: Mr. Adams.

20 MR. ADAMS: Thank you, Your Honor.

21 REBUTTAL CLOSING OF PLAINTIFF

22 MR. ADAMS: The defendants in this case haven't
23 offered you defenses. They've given you the same excuses,
24 the same rationalization and after the fact justifications
25 that they gave themselves throughout the entire scheme. They

1 set up straw men then tried to knock them down and declare
2 victory.

3 The first straw man each of them has set up is that this
4 case is about treatment. This is a billing case.

5 Mr. Jaffe put up the verdict form that you're going to
6 have to look at on Counts 2 through 15. Let me tell you
7 right now why each and every one of those counts is
8 fraudulent.

9 Count 2, 4, 7, 8, 9, 11, 12, 13 and 14 all in Rebecca
10 Price's name before she ever saw the patient. There wasn't
11 one insurance company witness who said they would pay for
12 that had they known that. Every one of them is fraudulent
13 and every one of these defendants knew it.

14 On Count 10 Price never saw the patient, not at all. You
15 could look and you'll see the blank Price form in there.

16 Count 15, Doctor Medina, you heard him testify, never saw
17 the patients.

18 Counts 3 and 6, a charged temperature gradient test and
19 if you think at the end of this trial that an instrument
20 that's not for human use is medically necessary then you'll
21 acquit them on Counts 3 and 6.

22 And on Count 5 Price isn't even in the office.

23 That's what's wrong with those counts.

24 Mr. Zimarowski asked, where is the material
25 misrepresentation? That's it. That Rebecca Price was in

1 charge of the treatment of those patients. There is nobody
2 in this room who, after three weeks of trial, can say with
3 straight face that Rebecca Price and Doctor Medina were in
4 charge of the treatment of these patients. It is beyond --
5 beyond doubt that they are not in charge but their names are
6 going on the bill and these guys know it.

7 Mr. Jaffe says it's irrelevant whose name goes in the
8 box. Well it wasn't irrelevant to the insurance company.
9 You bill for an office visit and it has Rebecca Price's name
10 there, she's not in the office, she doesn't see the patient,
11 it's relevant to them. It's relevant to Medicare because
12 Medicare doesn't pay for anything done by a chiropractor
13 except manipulation of the spine. They won't even pay for
14 the x-ray. Medicare won't pay for more than twelve visits.
15 You heard that from him.

16 Patients with insurance policies from Blue Cross and Blue
17 Shield had no chiropractic coverage, none, zero. Had they
18 known it was a chiropractor they would not have paid. That's
19 why it's material misrepresentation.

20 PEIA, \$750, \$1000 cap. The same thing with Railroad
21 Maintenance and Accordia, monetary caps. You look at the
22 bills. How quickly were they over those caps? If it would
23 have been over those caps, the insurance company wouldn't
24 have paid. That's why it's material. That's why it's
25 fraudulent and these guys knew it because the one thing that

1 was incredibly aware to every one of them is that the MD is
2 not in charge of this clinic. They know that as sure as
3 anything.

4 You heard Doctor Halstead say the name in the box has got
5 to be the doctor of record, the one in charge, the one with
6 the highest authority. He knows that's not going on. Why
7 does he know that? Because he knows Doctor Medina doesn't
8 speak enough English even to meet him. He knows Doctor Price
9 isn't ordering the tests, that's what Burns tells him when
10 they go into the last meeting.

11 But, again, what they've done throughout this case,
12 misdirection, the words don't mean what they say. Provider
13 doesn't mean provider. Severely twisted doesn't mean
14 severely twisted, it means something else.

15 The defendants are like the fable hear no evil, see no
16 evil, speak no evil monkeys. Doctor Halstead sees no evil
17 though he knows that the MD isn't running Priority One
18 because it's not his client. He meets with Burns. He knows
19 how the thing is set up. He knows the management company and
20 Priority One are independent of each other because he's there
21 talking just to Burns. He's not talking to the MD and he
22 knows the MD isn't directing or supervising the treatment.
23 He knows when he talks to Wilson that it's Burns who's
24 running the show and that the money is being swept out of
25 Medina's company into the management company. That's the

1 basis for the money laundering. It's a scam. They put
2 together the proceeds in Priority One and sweep it in a
3 management company; that's what it's all about. He sees no
4 evil selling TG's to people when he knows they're not for
5 human use, even after he finds out. He saw no evil when he
6 didn't get the statistics. He said he didn't get the
7 statistics on how this place operates. Wait a second, guys.
8 Doctor Halstead says oh, I only got them for two clients.
9 Well, you must be very lucky because you saw the two clients
10 apparently who said it, Knoderer and Burns.

11 Twigg says I didn't see any patient records. How did I
12 know they weren't seeing the medical doctor? Twigg says he
13 comes in and pulls travel cards. You'll be able to look at
14 the travel cards; you'll be able to tell. Says he never sees
15 the HCFA-1500. Well, he gave plenty of advice about how to
16 fill them out, how to split the charges, you saw it in the
17 evidence.

18 Well, Doctor Halstead heard no evil. He didn't hear
19 Price say she wasn't going to do medically unnecessary
20 treatments in that meeting but, hence, sat mute. He didn't
21 hear Price say she's not going to go back and sign the
22 document. He didn't hear any evil. He didn't see evil as he
23 said -- excuse me. He knows Burns wanted him to talk to her
24 because she wasn't ordering the tests. That's what he
25 testified to out of his own mouth but he saw no evil going on

1 for a year.

2 Apparently he saw no evil when Twigg testified that they
3 all complained, Taylor and Filcheck, they all complained to
4 Halstead about unnecessary testing, heard no evil and he
5 spoke no evil in the IOV reports that you've seen over and
6 over again. You read it. You see it. That's your reaction.
7 He spoke -- he said pay attention to coverage. Don't do
8 procedures if they're not covered. He didn't speak any evil
9 when he repeatedly told them do more diagnostic testing and
10 therapy because they're losing revenue. That's the fair
11 thrust of everyone of those comments. He said, oh, no, I
12 told everyone hundreds and hundreds of times he said that's
13 only if medically necessary. Did he show you one document,
14 one document where that was shown. Not a one.

15 He spoke no evil when Twigg testified that he told him
16 well maybe we got rid of the wrong doctor after Taylor
17 complained about medically unnecessary testing. He knows
18 what's going on at the clinic. He said he used to talk about
19 possibilities, patient flow, communication. If he was so
20 concerned about communication why is he not more concerned
21 about the fact Doctor Medina doesn't speak English very well.
22 Because the only thing he cares about Doctor Medina, the only
23 thing he knows about Doctor Medina is that he signed the
24 forms and in his system that's all that matters.

25 What about Scott Taylor? He saw no evil when he was

1 doing temperature gradient tests when the label on the
2 machine says not for human use. How many times a week did he
3 do them? He didn't see any evil, even though he knows Doctor
4 Medina's asleep or reading golf magazines. He tells you I
5 thought he was the clinic director. I thought he was the
6 medical director. I thought he was ordering the tests.

7 He didn't see any evil when he fills out the case study
8 calling for the tests, when he fills out the super-bill
9 saying they've been done knowing that that super-bill's going
10 to result in a HCFA-1500 bill now. No, he sees no evil in
11 that. He sees no evil in ordering tests he doesn't
12 understand, he doesn't believe in and beyond the scope of his
13 practice and worst of all, he sees no evil when he writes the
14 insurance company the letter of medical necessity trying to
15 justify it and he sees no evil when, as he says in his
16 letters, I don't like lying to the patients.

17 He saw no evil in treating Muth, a guy who comes in and
18 says I just want to get limbered up for a work-out. Well,
19 Doctor Taylor maybe speaks the information of wellness care
20 and preventative medicine but most insurance companies did
21 not. It doesn't pay for that. If that's the service Muth
22 wanted, he had to tell them, fine, pay cash or go home.
23 Taylor doesn't get it. He spends an hour trying to prove to
24 you that Muth has scoliosis. That's not the point. The
25 point is Muth's insurance didn't cover wellness or

1 preventative care.

2 Taylor saw no evil when he signed up -- re-upped in 1996
3 with another employment contract with Priority One. They
4 made a lot about these employment contracts. Look at the
5 dates? You heard Twigg say that for a period of time
6 Mountaineer Chiropractic and Priority One ran in tandem. By
7 the end of '95 Mountaineer stopped taking patients that
8 didn't really exist. January of '96 Taylor signed a brand
9 new contract with Priority One, the only company that's left.
10 Why'd he do that? If he's so upset, if it is so bad at the
11 clinic and stressed out, all these things bother him, don't
12 sign the contract. Be a professional. They've asked you to
13 do stuff you don't like, you think is wrong, walk away.
14 That's what we expect from professionals.

15 Now Doctor Taylor, he didn't even see any evil when the
16 place is raided. If the place you work at was raided by the
17 FBI wouldn't you be a little concerned? He sees no evil when
18 Twigg leaves, the guy who's been telling him what to do,
19 never comes back. Not Taylor, he stays on and he heard no
20 evil. He heard no evil when Burns tells him in a staff
21 meeting, make stuff up. He hears no evil when Burns says
22 call everything mild, not -- don't use mild, think severely,
23 aggravated, degenerated. He hears no evil in that. Hears no
24 evil when they describe Medina as a gem and pliable. You saw
25 Medina. You know exactly what that meant. And he hears no

1 evil when Halstead tells him, here's the treatment protocol,
2 everybody gets a temperature gradient the first week. The
3 second week's the neurometer and so on. He complains about
4 it but he goes with it. He's willing to stay. His biggest
5 beef, I'm not -- I'm overworked and I'm not paid enough. If
6 they were paying him as much as they paid Medina he would
7 have been happy. He wouldn't have complained about a thing.

8 And he hears no evil when Price tells him when she's
9 resigning, get out of here and he spoke no evil when he wrote
10 the letters of medical necessity to the insurance companies
11 on behalf of a guy who, he says, was asleep and reading golf
12 magazines. What are you thinking about if you so deluded
13 yourself that that's okay?

14 He spoke no evil when he admitted in his letters he was
15 lying to the patients and he didn't like it. He spoke no
16 evil when he tried to convert them with the ten-point. He
17 had it in his notes and he spoke no evil when he went to the
18 marketing dinners to try to hook more patients in, even the
19 marketing dinners after the search.

20 What about Defendant Filcheck? He saw no evil that
21 Medina wasn't the medical director while he was sleeping or
22 retired in Florida. He said I thought we were sending them
23 by FedEx to Medina. The guy was asleep even when he was
24 there. It's preposterous to believe that Filcheck thought
25 they were sending letters to him to be signed in Florida.

1 He didn't see any evil when he filled out the case study
2 form calling for the treatments, filled out the super-bill,
3 which he knew was going to end up as a HCFA-1500. He saw no
4 evil when Burns and Twigg always just upgraded the services
5 and never downgraded them. He said, oh, I never saw the
6 bills but you heard -- you saw his resume and heard him
7 testify, the exact stuff they were doing in the billing
8 department of Priority One is what he was trained in doing.
9 Data entry. They just take this order and put it on the
10 HCFA. Who's name did he think was going on the HCFA-1500?

11 Again, he saw no evil in writing insurance companies. He
12 saw no evil in being an automaton, described himself as a
13 secretary. Do you want to be treated by somebody who's
14 trained as a doctor but thinks of himself as a secretary?

15 He saw no evil in taking directions from Twigg who had no
16 medical training and he saw nothing wrong with a system that
17 never provided him the ability on a regular basis to see the
18 MD's notes or even to see his own case study. Do you recall
19 that? All he had was a travel card. No one ever goes to
20 look at the patient file.

21 Saw no evil performing tests he didn't understand, didn't
22 agree with or beyond the scope of his -- his license. He saw
23 no evil in doing what he called unethical testing, that's
24 apparently okay. He saw no evil in doing tests that he told
25 the agents were codes that had been abused.

1 He, too, saw no evil when he signed up in 1996 for
2 another contract. He, too, re-upped. He could have walked
3 away. He didn't have to sign it.

4 He saw no evil --

5 THE COURT: Just a moment, Mr. Adams. If there is
6 any more reaction from members of the public, I will have you
7 removed. I don't want to say it again. Go ahead, Mr.
8 Adams.

9 MR. ADAMS: Filcheck saw no evil when Price mocked
10 the entire office with her chart. He saw no evil when the
11 place was searched. He saw no evil when Twigg quit. Again,
12 he, too, heard no evil when Burns described Medina as
13 pliable, a gem in that meeting or when they told him just to
14 call everything mild -- not to call anything mild rather but
15 severe.

16 He heard no evil when Halstead comes and says here's the
17 protocol, do it this way. They all complained about this but
18 they all stayed.

19 You heard him testify about upcoding. He saw no evil
20 either because oh, we did two lesser visits so I thought it
21 would be okay we billed for a third visit that was at a
22 higher level. The third visit at the higher level never
23 happened. He sees no evil in that.

24 And he spoke no evil when he told patients, you heard him
25 on the tape, they had severely twisted spine, three or four

1 in a row, same tape.

2 He spoke no evil when he told the insurance company, sent
3 them these letters of medical necessity he himself admits are
4 eighty to ninety percent bogus. He spoke no evil when he
5 told the agent he had to justify the tests to the patients.
6 No evil when you have to convince somebody of the value of
7 one of these diagnostic tests if the patients are
8 complaining. His lawyer said you hadn't heard from the
9 patients. You have. You heard from them indirectly because
10 both Taylor and Filcheck said the patients complained all the
11 time. That's why they had to keep her out. That's why they
12 had to convince them to stay. We had to lean them on their
13 backs, make the problem real for them they say.

14 And like Taylor, Filcheck goes to the dinners even after
15 the search, stays on.

16 Mr. Zimarowski spoke of the character witnesses with
17 regard to Filcheck. It's hard to be an Eagle Scout. It is
18 an accomplishment. It's harder still to stay one. Bill
19 Filcheck rose and soared with the eagles but he chose to
20 wallow with the hogs. They gave him a white coat but it was
21 way, way too big for him. He never became Doctor Filcheck
22 and that's very sad. He couldn't be responsible. He
23 couldn't be professional. You heard him say "I was just a
24 secretary".

25 You didn't see many severely twisted vertebrae in this

1 case but you did see three defendants with severely twisted
2 values and severely twisted testimony.

3 Tell them with your verdict that you want doctors to be
4 professionals. You want doctors to put patient care before
5 their personal compensation.

6 Tell them you don't want your time and your money wasted
7 as a patient on diagnostic testing they don't understand,
8 they don't believe in and they're unlicensed to do and tell
9 Defendant Halstead to stop teaching this scheme to hundreds
10 of chiropractors around the country. Tell Defendant Halstead
11 that if they're going to have an MD/DC practice make sure the
12 MD's not a sham, make sure the MD is there when a patient's
13 treated. Make sure the MD is supervising and responsible for
14 the treatment, not somebody else just so you can bill for it.

15 Tell them --

16 THE COURT: Mr. Adams, you have one minute left.

17 MR. ADAMS: Thank you. Tell them you want reality
18 over appearances, you want substance over silly forms, you
19 want recovery over revenue. Tell them by returning a verdict
20 of guilty on all counts.

21 I thank you for your time, your attention and indeed your
22 endurance. Do justice.

23 (Rebuttal closing of Plaintiff end at 3:35 p.m.)

24 THE COURT: Ladies and gentlemen of the jury, as I
25 told you I would have a few brief additional instructions to

1 prepare you for how you should conduct your deliberations.
2 They start on page forty-seven of the Charge, if you care to
3 read along.

4 If it becomes necessary during your deliberations to
5 communicate with me, you may send a note by the court
6 security officer, signed by your foreperson, or by one or
7 more members of the jury. No person--no member of the jury
8 should attempt to communicate with the Court by any means
9 other than a signed writing, and the Court will not
10 communicate with any member of the jury on any subject
11 touching the merits of the case other than in writing, or
12 orally here in open court. Also, I have not given you
13 transcripts of the evidence or--I'm sorry. I will not give
14 you transcripts of the evidence or testimony adduced at
15 trial. You must make your findings from the evidence as you
16 remember it.

17 Bear in mind also that you are never to reveal to any
18 person - not even to the Court - how the jury stands,
19 numerically or otherwise, on the question of the guilt of the
20 defendants, until after you have reached a unanimous verdict,
21 and that's particularly important when you send notes, do not
22 include any numerical breakdown of where you stand if the
23 note, for some reason, pertains to that issue. The notes
24 become part of the public record. They are shared with
25 counsel and we should not know how you stand until you have

1 advised me that you've reached a unanimous verdict.

2 In addition, the local rules of this Court provide that
3 after the conclusion of a trial, no party, his agent or his
4 attorney shall communicate or attempt to communicate
5 concerning the jury's deliberations or verdict with any
6 member of the jury before which the case was tried, without
7 first obtaining an order of the Court granting permission to
8 do so. This rule does not prevent you, the jury, from
9 communicating with anyone concerning your deliberations or
10 verdict, but merely governs the contact of you by other
11 persons involved in the trial.

12 Upon retiring to the jury room you should first select
13 one of your number to act as your foreperson, who will
14 preside over your deliberations and who will be your
15 spokesperson here in court.

16 When you go to the jury room to consider the evidence
17 presented to you during the trial of this case, you will be
18 furnished with jury verdict forms. There is one for each
19 defendant and the verdict forms are self-explanatory. You
20 can only find a defendant either guilty or not guilty as to
21 each count if all agree.

22 Now I'm going to hold up these verdict forms and you'll
23 see what I'm talking about. There's a set of verdict forms
24 for Doctor Filcheck. There's a set of verdict forms for
25 Doctor Taylor and there's a set of verdict forms for Doctor

1 Halstead and within these verdict forms are contained each of
2 the counts as to which the defendant has been charged in the
3 Indictment. You will also have the Indictment in the jury
4 room with you.

5 On these verdict forms, for example, as to Count 1,
6 conspiracy, there's a line where you have to write in the
7 word of your--of how you find your decision on that, either
8 guilty or not guilty. There's not a check off box; you have
9 to write it in and there's a brief summary of what that count
10 consists of and, of course, you have that information in your
11 instructions.

12 Now when you turn to Count 2, as you saw in some of the
13 closing arguments, there's one segment of the charge that's
14 contained in the Indictment that pertains to this particular
15 count, then there is a space for you to fill in the word
16 again, either guilty or not guilty, followed by a special
17 interrogatory.

18 Now a special interrogatory means a special question.
19 That's what the word interrogatory means. What you're asked
20 to do there is as follows: If you have found the guilty not
21 guilty, proceed to the next count. That means you turn the
22 page and go to the next count. If you have found the
23 defendant guilty, you must answer the special--the following
24 special interrogatory and you'll notice the word is focused
25 on these three categories. You have to find unanimously that

1 the United States has proved beyond a reasonable doubt that
2 the HCFA-1500 claim form relevant to Count 2 falsely claims
3 and then you check one of three; either that the service had
4 been provided by a specified medical doctor; in other words,
5 that that was the false claim, or the false claim was the
6 service was medically necessary or the false claim was the
7 service was performed in accordance with the CPT Manual.
8 Now that same format is followed until you get to Count 15--
9 until you finish Count 15.

10 Counts 1 through 15 pertain to Doctor Filcheck and to
11 Doctor Taylor. So when you don't see any further counts in
12 the verdict packet for each of those defendants, it's not
13 because they're missing. They are only charged in Counts 1
14 through 15, okay.

15 As to Doctor Halstead, Doctor Halstead has additional
16 counts. He is charged in Count 16, which is the money
17 laundering conspiracy and it's the same format as the health
18 care and mail fraud conspiracy charge, guilty or not guilty
19 and there is an additional instruction with regard to Count
20 16 and it says: If you have found the defendant not guilty
21 then skip or pass over Counts 17 through 26 and have the jury
22 foreperson sign and date the last page of the verdict form.
23 If you have found the defendant guilty, proceed to Counts 17
24 through 26 and they are set up in a chart form as well, very
25 similarly to what you saw in Counts 2 through 15.

1 The lawyers and I worked very hard on these verdict forms
2 and hopefully they are self-explanatory and if they are not,
3 I'm sure that we'll hear a question from you and we'll do our
4 very best to answer that question.

5 Now do not begin your deliberations until the Clerk
6 delivers to your jury room the verdict form and the exhibits.

7 Finally, observing that all of the principal jurors are
8 able-bodied and mentally alert, it now becomes my duty to ask
9 the alternate jurors to stand aside and take a seat in the
10 courtroom, and Ms. Berdine and Mr. Williams, could I ask you
11 to step--well, actually you know what, you're going to step
12 aside and I'm going to ask you to stay there because of the
13 congestion in the courtroom right where you are, so just stay
14 there. When the jury leaves, you just stay in your seat. I
15 do have a few additional instructions for you.

16 Ladies and gentlemen, the case is now ready for your
17 deliberation and the Court's officer will conduct you to the
18 jury room.

19 (Jury out 3:42 p.m.)

20 THE COURT: Ms. Berdine and Mr. Williams, this is
21 not the end of your service. I thank you for your service to
22 date and I'm going to advise you that under the federal rules
23 I am allowed to retain you as jurors the during deliberations
24 of the jury in case any jury becomes ill or is otherwise
25 incapacitated or unable to serve. I may then replace that

1 juror with one of the alternates. In order to do that, I
2 have to keep you sequestered during the period of the
3 deliberations. By that I mean I have to keep you away from
4 the public and for that reason I'm going to ask the Court
5 Security Officers to escort you to the conference room up in
6 the Magistrate Judge's Courtroom. We will let you know as
7 soon as I hear from the jury what their schedule is so you're
8 not sitting there in the dark. We'll make sure that you're
9 advised about that and to the extent that you have any
10 questions, you can let Court Security know and they will let
11 me know and I'll ask that you put that in writing, but you
12 take your notebooks with you, take your verdict form--I mean
13 your instructions with you and I'll ask Court Security to
14 lead you upstairs to the conference room. Thank you very
15 much.

16 Counsel, you're free to stay here in the courtroom. I
17 would ask that if you do leave the courthouse that you give
18 us a cell phone number or land phone number where we can
19 contact you in case there's a question and also bring you
20 back within five minute's notice. I assume that if--defense
21 counsel may be going to Mr. Frame's office and if you do
22 that, that's certainly within five minutes and if you're
23 going--if the Government is going down to the Federal
24 Building, that's a little bit more but it's close enough but
25 you're free to stay here in the courtroom.

1 MR. JAFFE: I think we're going to stay here until
2 we hear what the jury is going to do.

3 THE COURT: All right. Okay. Is there anything
4 further? Have counsel all looked at the final exhibit list?
5 Before it goes into the jury would you please do that so that
6 we can take care of that issue. It's right here and I'll
7 just ask that you take a look at that and then if you have an
8 objection, Carole can let me know or you can make a proffer
9 on the record.

10 This Court stands in recess. Thank you.

11 (Recess at 3:45 p.m. until 8:40 p.m.)

12 THE COURT: Ladies and gentlemen, I've received a
13 note from the jury that indicates that they wish to adjourn
14 for the evening and I plan to bring them in in order to do
15 that. Please bring the jury in. The note is--Carole has the
16 note if you'd like to see who signed it.

17 (Jury in 8:40 p.m.)

18 THE COURT: Ladies and gentlemen, please be seated.
19 I've received the note from your foreperson and understand
20 that you wish to adjourn for the evening. All of us want to
21 thank you for your deliberations today and before I excuse
22 you, I just wanted to caution you that you should not discuss
23 the case with anyone when you get home and please don't allow
24 any third person to approach you or to discuss the matter
25 with you and please avoid any media coverage of the case,

1 should there be any and then I wanted to ask you what time
2 you wish to resume your deliberations tomorrow morning. I'll
3 ask your foreperson.

4 FOREPERSON SEIBERT: Yes, ma'am, we will leave that
5 up to you.

6 THE COURT: Okay. Would you like to come back at
7 nine o'clock tomorrow morning? Would that be--or do you want
8 to start earlier at eight-thirty? I mean it's really up to
9 you. I don't know.

10 FOREPERSON SEIBERT: Eight-thirty would be fine.

11 THE COURT: Eight-thirty it will be then. So with
12 those admonitions and the fact that you should leave your
13 notes and anything else that you have with you in the jury
14 room where they will be locked up for the evening and will be
15 untouched by anyone else; there won't be any cleaning people
16 in there or anything, then we'll see you tomorrow morning at
17 eight-thirty and if you need anything to continue your
18 deliberations, please let Carole know and we'll provide you
19 with any materials or whatever it may be. We appreciate your
20 hard work very much and I would like the alternates to know
21 that we appreciate your waiting as well and we'll see you
22 tomorrow morning then at eight-thirty as well. Is that okay?
23 The weather report is fifty degrees.

24 All right. Thank you very much. Give your notes to
25 Carole and she'll put those in envelopes and seal them and

1 you'll have them tomorrow morning. Thank you.

2 (Jury out 8:45 p.m.)

3 THE COURT: This Court stands adjourned until eight-
4 thirty tomorrow morning. Thank you.

5 (Proceedings were adjourned at 8:47 p.m., 02-03-2003)

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DAY 16 - FEBRUARY 4, 2003

P R O C E E D I N G S

(02-04-2003, 8:30 o'clock a.m., defendants present)

(Jury out deliberating)

(Recess from 8:30 a.m., until 2:57 p.m., jury deliberating)

THE COURT: All right. I've received a note from the jury, signed by the Foreperson Lauren Seibert that indicates that the jury has reached a verdict. Bring the jury in, please.

(Jury in 2:57 p.m.)

THE COURT: Good afternoon ladies and gentlemen of the jury, please be seated. I've received Mrs. Seibert's note and I understand that you've reached a verdict. Is that correct?

FOREPERSON SEIBERT: Yes, Your Honor, we have.

THE COURT: Is that as to all counts as to all defendants?

FOREPERSON SEIBERT: Yes, Your Honor, we have.

THE COURT: Thank you. Would you please hand that to the Court Security Officer and I'll ask him to bring it to me. Thank you.

Ladies and gentlemen of the jury, before I publish your verdict here in open court I have to review it to make sure that it is in the correct form and that everything has been signed.

1 (Pause)

2 (PUBLICATION OF VERDICT)

3 THE COURT: Finding the verdict form to be correctly
4 submitted to the Court, I will now publish the verdict here
5 in open court and I would ask that the Defendant, William C.
6 Filcheck, stand. I'm going to go through this in the order
7 in which the defendants are listed in the Indictment.

8 In the case of *United States of America versus William c.*
9 *Filcheck, Jr.*, Count 1, Conspiracy. As to Count 1, we, the
10 jury, on the issues joined, find that the Defendant, William
11 C. Filcheck, Jr., is guilty.

12 Counts 2 through 15, Health Care Fraud. As to Count 2,
13 we, the jury, on the issues joined, find that the Defendant,
14 William C. Filcheck, Jr., is guilty.

15 The service had been--the false claim was that the
16 service had been provided by a specified medical doctor.

17 Count 3, we, the jury, on the issues joined, find that
18 the Defendant, William C. Filcheck, Jr., is guilty.

19 The service--the false claim was the service was
20 medically necessary.

21 We, the jury, on the issues joined, find that the
22 Defendant, William C. Filcheck, Jr., is guilty as to Count 4.

23 The false claim was the service was performed in
24 accordance with the CPT Manual.

25 Count 5, we, the jury, on the issues joined, find that

1 the Defendant, William C. Filcheck, Jr., is guilty.

2 The false claim was the service was performed in
3 accordance with the CPT Manual.

4 Count 6, we, the jury, on the issues joined, find that
5 the Defendant, William C. Filcheck, Jr., is guilty.

6 The false claim is the service was medically necessary.

7 As to Count 7, we, the jury, on the issues joined, find
8 that the Defendant, William C. Filcheck, Jr., is guilty.

9 The false claim is the service had been provided by a
10 specified medical doctor.

11 As to Count 8, we, the jury, on the issues joined, find
12 that the Defendant, William C. Filcheck, Jr., is guilty.

13 As to the false claim the service had been provided by a
14 specified medical doctor.

15 As to Count 9, we, the jury, on the issues joined, find
16 that the Defendant, William C. Filcheck, Jr., is guilty.

17 The false claim is the service had been provided by a
18 specified medical doctor.

19 As to Count 10, we, the jury, on the issues joined, find
20 that the Defendant, William C. Filcheck, Jr., is guilty.

21 As to Count 10, the false claim is the service had been
22 provided by a specified medical doctor.

23 As to Count 11, we, the jury, on the issues joined, find
24 that the Defendant, William C. Filcheck, Jr., is guilty.

25 The false claim, the service has been provided by a

1 specified medical doctor.

2 As to Count 12, we, the jury, on the issues joined, find
3 that the Defendant, William C. Filcheck, Jr., is guilty.

4 The false claim, the service had been provided by a
5 specified medical doctor.

6 As to Count 13, we, the jury, on the issues joined, find
7 that the Defendant, William C. Filcheck, Jr., is guilty.

8 The false claim is the service had been provided by a
9 specified medical doctor.

10 As to Count 14, we, the jury, on the issues joined, find
11 that the Defendant, William C. Filcheck, Jr., is guilty.

12 The false claim, the service had been provided by a
13 specified medical doctor.

14 As to Count 15, we, the jury, on the issues joined, find
15 that the Defendant, William C. Filcheck, Jr., is guilty.

16 The false claim, the service had been provided by a
17 specified medical doctor.

18 The verdict was signed by Lauren Seibert on behalf of the
19 jury as Foreperson and dated 2/4/2003.

20 Doctor Filcheck, you may be seated.

21 Would the Defendant, Scott G. Taylor, please stand?

22 As to Count 1, the Conspiracy Count, we, the jury, on the
23 issues joined, find that the Defendant, Scott G. Taylor, is
24 guilty.

25 As to Count 2, we, the jury, find that the Defendant,

1 Scott G. Taylor, is guilty.

2 The false claim, the service had been provided by a
3 specified medical doctor.

4 As to Count 3, we, the jury, on the issues joined, find
5 that the Defendant, Scott G. Taylor, is guilty.

6 The false claim, is the service was medically necessary.

7 As to Count 4, we, the jury, find the Defendant, Scott G.
8 Taylor, guilty.

9 The false claim is that the service was performed in
10 accordance with the CPT Manual.

11 As to Count 5, we, the jury, find that the Defendant,
12 Scott G. Taylor is guilty and the false claim is that the
13 service was performed in accordance with the CPT Manual.

14 As to Count 6, we, the jury, on the issues joined, find
15 that the Defendant, Scott G. Taylor is guilty.

16 The false claim is the service was medically necessary.

17 As to Count 7, we, the jury, find that the Defendant,
18 Scott G. Taylor, is guilty.

19 The false claim, that the service had been provided by a
20 specified medical doctor.

21 As to Count 8, we, the defendant, find the Defendant,
22 Scott G. Taylor, guilty.

23 The false claim, that the service had been provided by a
24 specified medical doctor.

25 As to Count 9, we, the jury, find that the Defendant,

1 Scott G. Taylor, is guilty.

2 The false claim, that the service had been provided by a
3 specified medical doctor.

4 As to Count 10, we, the jury, find that the Defendant,
5 Scott G. Taylor is guilty.

6 The false claim, that the service had been provided by a
7 specified medical doctor.

8 As to Count 11, we, the jury, find that the Defendant,
9 Scott G. Taylor is guilty.

10 The false claim, that the service had been provided by a
11 specified medical doctor.

12 As to Count 12, we, the jury, on the issues joined, find
13 that the Defendant, Scott G. Taylor is guilty.

14 The false claim is that the service had been provided by
15 a specified medical doctor.

16 As to Count 13, we, the jury, find that the Defendant,
17 Scott G. Taylor, is guilty.

18 The false claim is that the service had been provided by
19 a specified medical doctor.

20 As to Count 14, we, the jury, find that the Defendant,
21 Scott G. Taylor is guilty.

22 The false claim is that the service had been provided by
23 a specified medical doctor.

24 As to Count 15, we, the jury, find that the Defendant,
25 Scott G. Taylor, is guilty.

1 The false claim is that the service had been provided by
2 a specified medical doctor.

3 And the verdict is signed by the Foreperson Lauren
4 Seibert and it's dated February 4th, 2003.

5 Doctor Taylor, you may be seated.

6 Would the Defendant, Ronald L. Halstead, please stand?

7 On Count 1, the Conspiracy, we, the jury, find that the
8 Defendant, Ronald L. Halstead, is guilty.

9 On Count 2, we, the jury, on the issues joined, find that
10 the Defendant, Ronald L. Halstead, is guilty.

11 The false claim, that the service had been provided by a
12 specified medical doctor.

13 On Count 3, we, the jury, find that the Defendant, Ronald
14 L. Halstead, is guilty.

15 The false claim is that the service had been provided by
16 a specified medical doctor.

17 On Count 4, we, the jury, find that the Defendant, Ronald
18 L. Halstead, is guilty.

19 The false claim, that the service had been provided by a
20 specified medical doctor.

21 As to Count 5, we, the jury, find that the Defendant,
22 Ronald L. Halstead, is guilty.

23 The false claim is that the service had been provided by
24 a specified medical doctor.

25 As to Count 6, we, the jury, find that the Defendant,

1 Ronald L. Halstead, is guilty.

2 The false claim is that the service had been provided by
3 a specified medical doctor.

4 As to Count 7, we, the jury, on the issues joined, find
5 that the Defendant, Ronald L. Halstead, is guilty.

6 The false claim, that the service had been provided by a
7 specified medical doctor.

8 As to Count 8, we, the jury, find that the Defendant,
9 Ronald L. Halstead, is guilty.

10 The false claim is that the service had been provided by
11 a specified medical doctor.

12 As to Count 9, we, the jury, on the issues joined, find
13 that the Defendant, Ronald L. Halstead, is guilty.

14 The false claim is that the service had been provided by
15 a specified medical doctor.

16 As to Count 10, we, the jury, find that the Defendant,
17 Ronald L. Halstead, is guilty.

18 The false claim is that the service had been provided by
19 a specified medical doctor.

20 As to Count 11, we, the jury, find that the Defendant,
21 Ronald L. Halstead, is guilty.

22 The false claim is that the service had been provided by
23 a specified medical doctor.

24 As to Count 12, we, the jury, on the issues joined, find
25 that the Defendant, Ronald L. Halstead, is guilty.

1 The false claim is that the service had been provided by
2 a specified medical doctor.

3 As to Count 13, we, the jury, find that the Defendant,
4 Ronald L. Halstead, is guilty.

5 The false claim is that the service had been provided by
6 a specified medical doctor.

7 As to Count 14, we, the jury, find that the Defendant,
8 Ronald L. Halstead, is guilty.

9 The false claim, that the service had been provided by a
10 specified medical doctor.

11 As to Count 15, we, the jury, find that the Defendant,
12 Ronald L. Halstead, is guilty.

13 The false claim is that the service had been provided by
14 a specified medical doctor.

15 As to Count 16, we, the jury, on the issues joined, find
16 that the Defendant, Ronald L. Halstead, is guilty of
17 conspiracy to launder money instruments.

18 As to Count 17, we, the jury, on the issues joined, find
19 that the Defendant, Ronald L. Halstead, is guilty.

20 As to Count 18, we, the jury, find that the Defendant,
21 Ronald L. Halstead, is guilty.

22 As to Count 19, we, the jury, find that the Defendant,
23 Ronald L. Halstead, is guilty.

24 As to Count 20, we, the jury, find that the Defendant,
25 Ronald L. Halstead, is guilty.

1 As to Count 21, we, the jury, find that the Defendant,
2 Ronald L. Halstead, is guilty.

3 As to Count 22, we, the jury, find that the Defendant,
4 Ronald L. Halstead, is guilty.

5 As to Count 23, we, the jury, find that the Defendant,
6 Ronald L. Halstead, is guilty.

7 As to Count 24, we, the jury, find that the Defendant,
8 Ronald L. Halstead, is guilty.

9 As to Count 25, we, the jury, find that the Defendant,
10 Ronald L. Halstead, is guilty.

11 As to Count 26, we, the jury, find that the Defendant,
12 Ronald L. Halstead, is guilty.

13 The verdict is signed by Lauren Seibert, Foreperson and
14 is dated February 3rd, 2003.

15 Doctor Halstead, you may be seated.

16 Ladies and gentlemen of the jury, at this time, I am
17 going to conduct a poll of each of you to determine if the
18 verdict that I have published is your verdict in every
19 respect as to each of these defendants.

20 (Jury Polled - all affirmative answers)

21 THE COURT: Ladies and gentlemen of the jury, that
22 concludes your jury service. Would you, please, together
23 with the alternates, return to your jury room for a moment.
24 I would like to come in in just a couple of minutes to thank
25 you for your jury service. Would you mind waiting for me in

1 there?

2 (Jury out 3:25 p.m.)

3 THE COURT: All right. Please be seated. At this
4 time I order the verdict forms filed and adjudge each of the
5 defendants guilty on all the Counts as charged in accordance
6 with the jury's verdict.

7 At this time are there any motions with regard to the
8 forfeiture issue, Mr. Zimarowski?

9 MR. ZIMAROWSKI: Your Honor, we--Mr. Adams and I have
10 discussed it. I think he has a position on that and I think
11 the Court may want to hear from Mr. Adams first.

12 THE COURT: All right. Mr. Adams.

13 MR. ADAMS: I believe that, with respect to these
14 defendants, there is no specified property named in the
15 forfeiture count; it's simply a money judgment; therefore, I
16 don't know that we need a hearing to show nexus between a
17 particular property. In that regard, I think the defendants,
18 unless they have some reason that we haven't heard, Your
19 Honor, I don't see that there's a forfeiture.

20 MR. ZIMAROWSKI: Your Honor, if Mr. Adams' position
21 is legally correct and the Court rules that it's correct,
22 then obviously we don't have any nexus issue to place before
23 the jury. And, again, I'm--we'll let the Court make the
24 ruling on whether there is or is not a nexus issue to be
25 decided. If there is a nexus issue, we would obviously

1 request a jury.

2 THE COURT: As to these specific pieces of property
3 that are alleged in Count B of paragraph a hundred and
4 twenty, Mr. Adams, your position is what now?

5 MR. ADAMS: Those are all properties associated with
6 Defendant, Robert Burns.

7 THE COURT: Okay. From my review of what I've just
8 read and what response I just got, I agree with that. Do you
9 have any--

10 MR. ZIMAROWSKI: No, I do not dispute that, Your
11 Honor. Again, that's why I let Mr. Adams speak to that.

12 THE COURT: All right. Thank you very much. In
13 that vein then, I don't believe that it's necessary for me to
14 hold the jury over or to return them for a forfeiture hearing
15 and I will permit them to leave.

16 Now with regard to post-trial motions, Mr. Jaffe, Mr.
17 Zimarowski and Mr. Harris, did you wish to address the time
18 frames and other matters at this time?

19 MR. JAFFE: Yes, pursuant to Rule 29-C, I believe
20 the Court has discretion to extend the seven-day deadline.
21 During that seven-day period, which I believe that's taken, I
22 would say that we would like twenty-one days, because I think
23 the seven day means you have around nine or at least, because
24 of weekends. I think Mr. Harris has a scheduling issue with
25 a brief that he has to have filed.

1 THE COURT: Yes.

2 MR. HARRIS: Yes, Your Honor, I have a brief in the
3 Fourth Circuit due on the 13th, which I think the Court's
4 aware of and I've worked on it some obviously been it's been,
5 what a month or so, I haven't touched it and I'm going to
6 start work on that immediately and that will tie me up until,
7 what is that, next--Thursday of next week.

8 THE COURT: Does the Government have any objection
9 to my granting the defendants until Monday, the 24th of March
10 for the submission of any post-trial motions.

11 MR. ADAMS: No, Your Honor, no objection.

12 THE COURT: Is that sufficient time for counsel?

13 MR. JAFFE: Yes, Your Honor.

14 MR. HARRIS: Yes, Your Honor, that's fine.

15 THE COURT: Then the Court will provide leave to
16 extend the time frame for the filing of motions, after
17 discharge of the jury, until the close of business on Monday,
18 March 24th.

19 Are there any other motions to come before the Court at
20 this time, specifically with regard to bond?

21 MR. HARRIS: Your Honor, I would move that my client
22 be allowed to continue on the bond that he has. I think it
23 was a personal recognizance.

24 MR. ZIMAROWSKI: Likewise for Doctor Filcheck, Your
25 Honor.

1 MR. JAFFE: We've actually posted a bond, two
2 houses; Doctor Halstead's brother's house and the house of
3 his ex-wife and children, as well as a cash bond for the
4 amount of a hundred and fifty thousand dollars. We haven't
5 moved to exonerate. We'd move to keep that.

6 THE COURT: All right.

7 MR. JAFFE: He doesn't have his passport.

8 THE COURT: He doesn't have his passport?

9 MR. JAFFE: He does not have a passport, no
10 connection. Two hearings in Atlanta.

11 THE COURT: Have the other defendants turned in any
12 passports if they have.

13 MR. HARRIS: Doctor Taylor doesn't have a passport.

14 MR. ZIMAROWSKI: And Doctor Filcheck turned in his
15 passport.

16 THE COURT: Does the Government have any objection
17 to the defendants remaining on bond, pending sentencing?

18 MR. ADAMS: Your Honor, I think with respect to
19 Defendant Halstead, I think bond needs to be reviewed in
20 light of the nature of the convictions and his prior
21 convictions. I think he's a potential flight risk because--
22 so to the ability you would ascertain what his assets are.
23 Also he is currently continuing to teach the MD seminars
24 around the country and that, as a person who is doing that is
25 in constant travel. Also I believe the Court saw during--it

1 wasn't admitted into evidence, but a number of documents that
2 the Government offered with respect to prior false statements
3 in legal proceedings at various times, and that for those
4 reasons we believe that bond needs to be increased.

5 THE COURT: In what respect?

6 MR. ADAMS: I think it's at a hundred and fifty now.
7 The Government would ask for five hundred thousand.

8 THE COURT: Mr. Jaffe.

9 MR. JAFFE: Well, he's been in constant travel
10 throughout this period of time; it's only in America.
11 There's just no way in the world that he's going to be able
12 to come up with anything close to that. It took us a week to
13 get these two houses. That's what he got, between legal fees
14 and his business and that's what he has.

15 THE COURT: Does Doctor Halstead--let me ask this to
16 the Government. To your knowledge, does Doctor Halstead have
17 any business ties or family connections anywhere out of the
18 United States?

19 MR. ADAMS: Your Honor, we--I believe when Mr.
20 Markson testified, he provided an interview to Special Agent
21 James regarding conversations he had in the past with Doctor
22 Halstead with respect to off-shore accounts and we would note
23 that some of the false statements that he had some property,
24 dealt with the concealment of assets and indeed we feel with
25 respect to Doctor Knoderer and with respect to the prior

1 proceedings.

2 THE COURT: But Doctor Halstead has met every
3 requirement of his bond conditions during the pendency of
4 this litigation as far as I'm aware. Correct?

5 MR. ADAMS: I'm not aware that anything has not been
6 met.

7 THE COURT: Okay. Is there any new evidence, other
8 than the convictions here today, which would support an
9 argument that he is a flight risk?

10 MR. ADAMS: I think only the recent confirmation of
11 the amount of outstanding tax liability he has for, I think,
12 for the years 1991 forward, just shy three million dollars.

13 THE COURT: Is that in the information that's before
14 me?

15 MR. ADAMS: Not at this time, no.

16 THE COURT: No.

17 MR. ADAMS: But it does, I think, go to risk of
18 flight, Your Honor, given the amount of restitution that may
19 be involved with this case plus his tax liability.

20 THE COURT: Here's what I'm going to do. I'm going
21 to continue Doctor Halstead on the current bond. I'm going
22 to give the Government seven days within which to file any
23 information that they want me to consider that would suggest
24 that Doctor Halstead's risk of flight has increased and that
25 the bond--the amount of bond should be increased and that

1 would be due on Monday, the 10th and then I would give Doctor
2 Halstead until Monday the 17th to file a response indicating
3 the grounds in support of maintaining--retaining the bond at
4 the amount it is and under the same terms and conditions and
5 after that, I'll issue a ruling. I don't feel I have the
6 information in front of me to properly judge that at this
7 time.

8 I will, therefore, unless otherwise specified, continue
9 the defendants on the same bond conditions as previously set
10 by the Magistrate Judge and there will be an order entered
11 setting a schedule for the submission of a pre-trial report
12 or presentence report and then setting a sentencing date. My
13 estimate of sentencing in this case would be that the
14 sentencing date would be sometime in late April or early May
15 and we will get you a specific date within the next week,
16 once the judgment order is entered and the scheduling order
17 goes out.

18 Are there any other matters for the Court to take up
19 before we adjourn?

20 MR. HARRIS: Well, Your Honor, I just want to
21 inquire if you were going to--you said something about
22 speaking to the jury and I know in the past you've come back
23 out to talk to us a little bit.

24 THE COURT: If you request, I will do that.

25 MR. HARRIS: Yes, Your Honor.

1 THE COURT: All right. Thank you very much.

2 MR. JAFFE: Nothing from us.

3 THE COURT: All right. Thank you.

4 MR. ADAMS: Nothing further from the Government,
5 Your Honor.

6 THE COURT: Court stands adjourned. Thank you very
7 much.

8 (The trial was concluded at 3:45 p.m., 02-04-2003)

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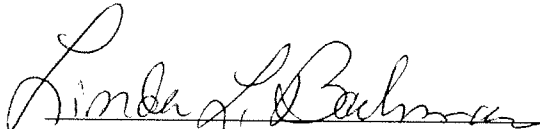
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CERTIFICATE

I, Linda L. Bachman, Official Reporter of the United States District Court for the Northern District of West Virginia, do hereby certify that the foregoing is a true and correct transcript of the proceedings had in the above-styled action on February 3 and 4, 2004 as reported by me by stenomask.

I certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Given under my hand this 10th day of March, 2005.


Linda L. Bachman, CCR, CVR
Official Reporter, United States
District Court for the Northern
District of West Virginia